



UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/905,080 | 07/16/2001 | Yatin Acharya | 95-508 | 5978 |
| 20736 | 7590 | 12/19/2005 | EXAMINER | |
| MANELLI DENISON & SELTER 2000 M STREET NW SUITE 700 WASHINGTON, DC 20036-3307 | | | NGUYEN, THU HA T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2155 | |
| DATE MAILED: 12/19/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

| | | |
|---|---------------------------------------|--|
| Application No. 09/905,080 Examiner Thu Ha T. Nguyen | Applicant(s) ACHARYA, YATIN | |
|---|---------------------------------------|--|

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-13.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. Other: _____.



SALEH NAJJAR

SUPERVISORY PATENT EXAMINER

Attachment to Advisory Action

1. Applicant's arguments filed September 21, 2005 have been fully considered but they are not persuasive because of the following reasons:
2. Applicant argues that Pekkala does not teach or suggest the data flow interruption request is output from the network interface to a destination ***within the same network node***, and that the processor ***within the same network node***.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the data flow interruption request is output from the network interface to a destination ***within the same network node***, and that the processor ***within the same network node***) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the submits that Pekkala does teach the feature of outputting by the network interface in the network node a data flow interruption request as shown in paragraphs 0084, 0092-0094, 0112 [*after detecting that there is no buffers are available to receive the data packet, issuing and providing a notification/flow control packet (i.e., outputting a data flow interruption request)*]. And Pekkala also teaches reducing by the processor in the network node the prescribed data stream by reducing execution of the prescribed application resource that generates the prescribed data stream, wherein the reducing step includes halting execution of the prescribed application resource, based on a determined unavailability of the system memory resources as shown in paragraphs

0076, 0084-0085, 0094, 0113-0114 [*After determining that the buffer is not available, issuing and transmitting zero credit flow control packets to shutdown /stop (i.e., halting) the link partner (i.e., application resource) then waits for the buffer to become available to receive the packet*].

3. Applicants still have failed to identify specific claim limitations that would define a patentable distinction over cited prior arts. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1 and 7. Claims 2-6, and 8-13 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the previous office action [dated July 28, 2005].